

Sholley: Cases on Constitutional Law

Harry D. Taft

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vincing—these portray appreciation of the criminal trial as a psychological as well as legal drama.

Mr. Busch's authority and competence as a trial commentator rests in a legal experience that has included service as a law school dean, as Corporation Counsel of the City of Chicago, as a legal author in the field of trial practice and as a trial lawyer of national reputation. In vast compliment it can be said that his skill at narration is commensurate with his legal ability.

This reviewer is of the opinion that it will be an insensitive legal reader indeed who is not captivated by *Prisoners at the Bar*, and *Guilty or Not Guilty*.

DANIEL P. WARD*

Cases on Constitutional Law. By JOHN B. SHOLLEY. Indianapolis: The Bobbs-Merrill Co., Inc., 1951. Pp. vi, 1144. Supplement 1951 Pp. 27. \$9.00 with Supplement.

One of the most important objectives of a course in Constitutional Law is to establish firmly in the minds of the students the manner in which the Supreme Court of the United States has interpreted the Constitution of the United States as to certain important matters. Here are some of the vital questions to be answered: How far have the interpretations gone in establishing the relationships of the federal government to the states, of the states to one another, and of the federal government and the states to the individuals under their jurisdiction? Has the Supreme Court, in upholding the exercise of powers by the federal government—express, implied and inherent—indicated a definite trend toward a unitary government in place of the federal system? How far can the federal government go in controlling local transactions under its great commerce and taxing powers? To what extent can a state exercise its three great powers—the police power, the power of eminent domain, and the taxing power? What has the Supreme Court indicated as to state power under the four great limitations, found in the Federal Constitution—due process of law, equal protection of the laws, privileges and immunities, and impairment of the obligations of a contract? What are the limitations as to state and national interference with the freedoms of the individual, protected by the Constitution?

The editor of this casebook has presented a selection of cases which will enable students to draw conclusions as to these vital constitutional problems.

Following the historical approach, the editor has divided his casebook into seven chapters. Each chapter covers an era. The division into chapters has been made on the basis of the leadership of certain justices of the Supreme Court, such as the Marshall Court and the Taney Court. The editor indicates in the preface to his casebook that he favors the historical approach over the more or less conventional doctrinal approach. However, in each chapter, he presents, together, the cases dealing with the same doctrinal subject matter. One great advantage of this historical approach is that the student may study the decisions in each chapter in the light of the political, social and economic conditions of the period covered by the chapter.

The editor's selection of cases is excellent, especially in the last chapter. Yet, with few exceptions, the selection is practically the same as found in any good casebook on Constitutional Law. The arrangement of the cases, only, is different. The editing of the cases is fine. Two outstanding features are: (1) the

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"sparing of the shears," and (2) the inclusion of many dissenting opinions, practically in full. Both of these features make for a long book, which usually scares both the professor and the students. However, the inclusion of the whole case, including dissenting opinions, has two great advantages: (1) the student has the benefit of the whole reasoning of the court, and (2) the student finds, very often, that the dissenting opinions are better from an educational standpoint. Moreover, the dissenting opinions in the earlier cases in many instances become Constitutional Law in later decisions.

The selection of a casebook of this type in lieu of the usual conventional casebook on Constitutional Law will depend upon the personal desire of the professor. If he wishes to assign to the students the extremely helpful task of making a doctrinal classification of cases for himself, if he wishes to emphasize the study of dissenting opinions, here is a fine casebook for his use. If the professor feels that it is better to provide the student with a ready-made doctrinal classification of cases, perhaps to save time, it would be more logical to adopt the conventional type of casebook.

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